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CLERK U.S. DISTRICT COURT
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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

9 LFP, IP, LLC,

10 CASE NUMBER:
 11 Plaintiff
 12 v.
 13 LEE KEITH BRETT,
 14 ANSWER, AFFIRMATIVE DEFENSES AND
 15 COUNTERCLAIMS
 16 Defendant(s).

2:16-cv-00166-FMO(RAO X)

17 I. ANSWER

18 Defendant, Lee Keith Brett, appearing pro se, answers Plaintiff's complaint as follows:

19 1. Defendant admits that he operates an online retail apparel store that sells American Hustler
 20 products. Defendant denies all remaining allegations.

21 2. Denied.

22 3. Defendant is without knowledge or information sufficient to form a belief as to the truth of
 23 the allegations contained in paragraph 3 and therefore denies the same.24 4. Defendant admits he is the main owner of Americanhustlerclothing.com. Defendant is
 25 without knowledge or information sufficient to form a belief as to the truth of the remaining
 26 allegations contained in paragraph 4 and therefore denies the same.

27 5. Denied.

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1 6. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the
2 allegations contained in paragraph 6 and therefore denies the same.

3 7. Admit previous residence at 5751 Tuttles Blvd., Dublin , Ohio. Admit Defendant controls
4 www.americanhustlerclothing.com. Defendant denies he operates or controls the look or
5 appearance of the site.

6 8. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the
7 allegations contained in paragraph 8 and therefore denies the same.

8 9. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the
9 allegations contained in paragraph 9 and therefore denies the same.

10 10. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the
11 allegations contained in paragraph 10 and therefore denies the same.

12 11. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the
13 allegations contained in paragraph 11 and therefore denies the same.

14 12. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the
15 allegations contained in paragraph 12 and therefore denies the same.

16 13. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the
17 allegations contained in paragraph 13 and therefore denies the same.

18 14. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the
19 allegations contained in paragraph 14 and therefore denies the same.

20 15. Admit.

21 16. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the
22 allegations contained in paragraph 16 and therefore denies the same.

23 17. Admit.

24 18. Admit.

25 19. Admit.

26 20. Denied.

27 21. Denied.

1 22. Defendant Brett incorporates by reference the allegations and responses contained in
2 paragraphs 1 through 22 of this Answer as if fully set forth herein.

3 23. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the
4 allegations contained in paragraph 23 and therefore denies the same.

5 24. Denied.

6 25. Denied.

7 26. Denied.

8 27. Denied,

9 28. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the
10 allegations contained in paragraph 28 and therefore denies the same.

11 29. Defendant incorporates by reference the allegations and responses contained in paragraphs 1
12 through 28 of this Answer as if fully set forth herein.

13 30. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the
14 allegations contained in paragraph 30 and therefore denies the same.

15 31. Denied.

16 32. Denied.

17 33. Denied.

18 34. Denied.

19 35. Denied.

20 36. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the
21 allegations contained in paragraph 36 and therefore denies the same.

22 37. Defendant incorporates by reference the allegations and responses contained in paragraphs 1
23 through 36 of this Answer as if fully set forth herein.

24 38. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the
25 allegations contained in paragraph 38 and therefore denies the same.

26 39. Denied.

27 40. Denied.

28 41. Denied.

1 42. Defendant Brett incorporates by reference the allegations and responses contained in
2 paragraphs 1 through 22 of this Answer as if fully set forth herein.

3 43. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the
4 allegations contained in paragraph 43 and therefore denies the same.

5 44. Defendant Brett incorporates by reference the allegations and responses contained in
6 paragraphs 1 through 43 of this Answer as if fully set forth herein.

7 45. Denied.

8 46. Denied.

9 47. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the
10 allegations contained in paragraph 47 and therefore denies the same.

11 II. AFFIRMATIVE DEFENSES

12 By way of further answer, Defendant asserts and alleges the following affirmative defenses:

13 1. Estoppel. Plaintiff failed to "police" its mark in the marketplace. Plaintiff also consented to and
14 acquiesced in Defendant's use of its trademark. Plaintiff should be estopped from suing Defendant
15 alleging violation of federal trademark infringement statutes.

16 2. License. Defendant previously applied and paid for licensing fees to engage in the business of
17 selling its merchandise.

18 3. Laches. Plaintiff's claims are barred by laches given the delay in bringing this lawsuit.

19 4. Waiver. Plaintiff waived its right to assert claim against Defendant for likelihood of confusion,
20 and that Defendant violated federal trademark infringement law, since Plaintiff failed to "police" its
21 marks against third parties, and also failed to police its mark in the entire marketplace.

22 5. Plaintiff failed to state a claim upon which relief can be granted.

23 6. Mitigation of Damages. Plaintiff has failed to mitigate its damages if any, or protect itself from
24 avoidable consequences.

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III. COUNTERCLAIMS

2 By way of further answer of Plaintiff's complaint, Defendant asserts the following counterclaim(s)
3 and allege as follows:

4 1. Abuse of Process. Plaintiff's institution and continuation of the instant proceeding is done with
5 the intention of interrupting Defendant's business causing Defendant distress and lost profits.

6 2. Damages for lost earnings and loss of income for tortious, wrongful interference with contractual
7 relations and business expectancy.

IV. AMENDMENT OF RIGHTS

9 Defendant reserves the right to amend this pleading by adding affirmative defenses, counterclaims,
10 cross-claims or by instituting third party actions as additional facts are obtained through future
11 investigation and discovery.

V. PRAYER FOR RELIEF

WHEREFORE, Defendant Lee Brett prays for relief and demands judgment as follows:

14 1. For dismissal of Plaintiff's complaint with prejudice, and without an award of costs;
15 2. Awarding Defendant damages on all counterclaims in an amount to be established at the time
16 of trial;

17 3. Awarding Defendant's lost profits for Plaintiff's tortious, wrongful interference with
18 contractual relations and business expectancy.

19 4. Awarding Defendant his costs, reasonable attorneys' fees and expert witness fees.

5. Awarding Prejudgment and post judgment interest.

20
21 6. Awarding Defendant punitive damages against Plaintiffs for their willful misconduct, in an
22 amount to be proven at trial.

7. Granting Defendant such other and further relief as the Court deems just and equitable.

Dated this 31st day of July, 2016.

ief as the Court deems just and equ

LEE K. BRETT, PRO SE